

**United States Environmental Protection Agency
Criminal Investigation Division
Investigative Activity Report**

Case Number

0500-0614

Case Title:

Village of Crestwood, IL

Reporting Office:

Chicago, IL, Area Office

Subject of Report:

Meeting with (b) (6), (b) (7) on May 19, 2010

Activity Date:

May 19, 2010

Reporting Official and Date:

(b) (6), (b) (7)(C), SA

08-JUN-2010, Signed by: (b) (6), (b) (7)(C), SA

Approving Official and Date:

(b) (6), (b) (7)(C), SAC

10-JUN-2010, Approved by: (b) (6), (b) (7), SAC

SYNOPSIS

05/19/2010 - On May 19, 2010, Special Agent (b) (6), (b) (7)(C) of the U.S. Environmental Protection Agency Criminal Investigation Division met with (b) (6), (b) (7) Manager of the Lake Michigan Management Section, Division of Water Resources Management, Office of Water Resources, for the Illinois Department of Natural Resources (DNR). (b) (6), (b) (7) provided details relating to the program that he manages for the DNR, and its relation specific to Crestwood.

DETAILS

On May 19, 2010, Special Agent (b) (6), (b) (7)(C) of the U.S. Environmental Protection Agency Criminal Investigation Division met with (b) (6), (b) (7) Manager of the Lake Michigan Management Section, Division of Water Resources Management, Office of Water Resources, for the Illinois Department of Natural Resources (DNR). Also present during the meeting were Assistant United States Attorneys Erika Csicsila and (b) (6), (b) (7)(C), and Regional Criminal Enforcement Counsel (b) (6), (b) (7)(C). This meeting was conducted the U.S. Attorney's Office in Chicago, IL.

The purpose of the meeting was to speak with (b) (6), (b) (7) regarding the water program that he manages, and how it relates specifically to the Village of Crestwood.

In summary and not verbatim unless otherwise noted, (b) (6), (b) (7) provided the following information:

(b) (6), (b) (7) stated that (b) (6), (b) (7) has worked in his current position for nearly 30 years.

The management of Lake Michigan water that is utilized in Illinois came about as a result of a 1967 U.S. Supreme Court decree. Following this decree, Illinois passed its own legislation in the early 1970s to control and monitor lake water. The LMO reports are based upon the decree along with the legislation that was passed. The submission of the LMO forms began in 1977. Primary users of the lake water were required to submit monthly usage reports, while other users were required to submit the annual LMO forms.

Initially, in 1977, an order from the Supreme Court authorized only four year allocations to entities for lake water. However, in 1980, an amended decree allowed the allocations of lake water to be extended to 40 years, which helped the state and municipalities for planning purposes. In addition, in 1980, 86 new users in Illinois were granted allocations. These new users included municipalities, utilities, and public waters supplies.

In order to determine allocations, potential users submit an application to the DNR. The DNR makes the determination based upon numerous factors. Some of these factors include the efficiency

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of water use, past use of water, forecast for growth of a community, and their ability to do a comprehensive review of their water use. Allocations are to be based upon use during average conditions. This would take into account water loss from a water system, as well as environmental factors such as hot or dry conditions.

If the DNR determines that a user is losing too much water, in excess of eight percent, they do have the ability to issue enforcement orders. However, (b) (6), (b) (7) stated that the goal of their program is compliance. (b) (6), (b) (7) stated that the assumption is made by the DNR that they are receiving accurate information from users on the LMO forms.

If the DNR received an LMO form from a user that showed high water losses, they would first inquire as to why the losses were so high. The DNR would again rely on the user to accurately report on what the problem may be. The DNR does not have a staff that does inspections or site visits to users to determine where the problems may be.

If no immediate determination for water loss could be provided to the DNR, they would require the user to come up with a reasonable plan to determine where the leaks in their system may be, with long term goals to minimize water loss. As part of the plan, the DNR would want users to implement a leak detection program for their system. While these leak detection programs are costly, they would typically pay for themselves in less than three years. In performing leak detection, a device is placed on a hydrant or valve in the water system, and then workers can listen for leaks. Then can typically pin point where in the system a leak is occurring.

If a city was to replace water mains due to leaking, this would be very costly, depending upon where the lines run. Costs for replacement could run from the thousands of dollars, into the millions. (b) (6), (b) (7) indicated that the DNR could also reduce a city's water allocation, as they don't want to give a city water to lose. If a city was not making an effort to resolve water loss, the DNR could reduce their allocations. The DNR also receives compliance programs from city's which they review to determine what problems may exist in a system. If a city was completely uncooperative in determining problems in their system, the DNR could refer them for enforcement and court action. This has never happened in Injerd's 30 years of work in this field.

(b) (6), (b) (7) stated that the eight percent maximum water loss standard came about in 1980. (b) (6), (b) (7) stated that unavoidable water loss is typically five to seven percent, but that losses should actually be almost zero. The DNR is currently considering doing away with, or lowering, the eight percent standard. The eight percent number is known by users, as it is found on the LMO forms. These forms use a standardized way to calculate water loss. These figures are ultimately utilized to ensure that Illinois is meeting the terms of the Supreme Court decree.

Between 1983 and 1994, the State of Illinois was above the allocated limit of Lake Michigan water that they were allowed to draw off. Then in 1995, a settlement was reached, and the additional water that had been utilized was "paid back" by 2005. There are many variables that go into the calculations for determining the state's allocation. Numbers don't come solely from what is drawn by users. Factors such as climate can also impact a state's allocations measures. From 1980 to the present, water use in Illinois from Lake Michigan in nearly flat, with no significant increases.

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When Illinois reports water use figures to the Supreme Court, the Army Corps of Engineers is responsible for doing the actual accounting of water. There are a number of variables in the calculations, such as the flow of the shipping canal, rain gauges, storm water runoff calculations and domestic pumpage from water users. According to (b) (6), (b) (7) the calculations involve a complicated modeling system with various additions and subtractions. In addition to the above information, the DNR provides the Army Corps with data from the three municipalities that pump directly from the Lake, which are Chicago, Evanston, and Winnetka. This data would also include the unaccounted for flow, or, water loss. Groundwater which is used from municipalities that also utilize Lake water would deduct from the State's allocation numbers. If a municipality used one million gallons, it would be deducted from the State's numbers. A small amount well water wouldn't make a difference in the overall numbers reported for the decree.

(b) (6), (b) (7) stated that there are no DNR restrictions on a municipality utilizing the shallow aquifer which is under portions of the Chicago area. Even though there are not prohibitions on its use, municipalities would still be required to report its use to the DNR. There are restrictions on the use of the deep aquifer, due to over use in the past. Failure to report well use may have affected the water allocation to Crestwood.

(b) (6), (b) (7) stated that every ten years, the DNR evaluates the allocations given to the lake water users. Users are asked to complete surveys, and project their future water needs. The review is not done face to face, but rather through submissions from the users. As the DNR has a limited staff, this review has been handled by Montgomery Watson Harza, a consulting company. The consultant reviews over 200 permits over this period, and assists in making a determination about what future allocations should be.

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